

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR**

O R D E R

S.B. Civil Second Appeal No.314 Of 2001

Shri Maheshwari Seva Samiti, Ajmer

Versus

Khwaja Gulam Jilani @ Bachchu Miya & Another

Date Of Order ::: 26.10.2006.

Hon'ble Mr. Narendra Kumar Jain J.

Mr. Rajendra Prasad, Counsel for appellant.

Mr. M.M.Ranjan, Counsel for the respondents

By the Court :

Heard learned counsel for both the parties.

The plaintiff-respondent No.1 Khwaja Gulam Jilani @ Bachchu Miya filed a suit for permanent injunction in the Lower Court against the Urban Improvement Trust, Ajmer, wherein the appellant filed an application under Order 1 Rule 10 of the Code of Civil Procedure, 1908 to implead him as a party. The Lower Court rejected the application of the appellant. Ultimately, the suit of the plaintiff-respondent was

decreed. Being aggrieved with the same, an appeal was preferred by the present appellant after obtaining leave from the First Appellate Court. However, the appeal of the appellant was dismissed by the First Appellate Court on the ground that he was not a party to the suit filed in the Lower Court. Hence, the appellant has filed this second appeal before this Court.

Learned counsel for the appellant submits that now he has already filed a separate suit, which is pending in the Lower Court and he prays that only observations to that extent may be made while dismissing this second appeal, that whatever observations made by the Lower Court and the appellate Court in the present proceedings, may not come in his way. The prayer of the appellant appears to be just and reasonable.

Consequently, the second appeal is hereby dismissed.

However, it is observed that whatever observations have been made against the appellant in the impugned judgment dated 06.05.1997 as well as 24.03.2001 shall not come in the way of the defendant

while deciding the separate suit of the plaintiff.

There will be no order as to costs.

(Narendra Kumar Jain) J.

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